IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 1470 of 20002

Date of Decision: 16th April, 2007

Amit Mohan Sharma & others	Petitioners
Versus	
State Bank of India and another	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]?

For the petitioners: Mr.Praneet Gupta, Advocate.

For the respondents: Mr.G.C.Gupta, Sr. Advocate, with Mr. Mohinder Gautam, Advocate.

Sanjay Karol, J.(Oral)

This judgment is being dictated in open Court in the presence of the learned counsel for the parties.

Shri Surinder Mohan Sharma, while working with the respondent-Bank at Bhuntar died in harness on 21st February, 1994. He left behind legal heirs, namely, Smt. Raj Devi Sharma (widow) and Shri Amit Mohan Sharma (son). In terms of letter dated 3rd March, 1994 petitioner No.2 Raj Devi Sharma was informed by respondent-Bank that being legal heir and

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Whether the reporters of Local Papers are allowed to see the Judgment?

dependant of deceased employee, she was entitled to certain benefits including compassionate appointment to one member of the family. Vide letter dated 15th March, 1994 petitioner No.2 requested reservation of one post for compassionate appointment in the Bank, in terms of its scheme in favour of her minor son, Amit Mohan petitioner No.1, who was just about 11 years and undertaking his education at that time. Petitioner No.2, however, in terms of the Scheme applied within a period of one year, for appointment/reservation for her son Amit Mohan. Vide letter dated 2nd August, 1994 petitioner was informed that the request for appointment of minor shall be considered upon his attaining majority on 7th August, 2001 and for which purpose it will be open for him to apply on the due date. In terms of the said letter upon attaining majority petitioner No.1 applied for compassionate appointment, which request was turned down by the respondent-Bank in terms of letter dated 15th November, 2001 (Annexure P-6). Another request for reconsideration was also turned down by the respondent-Bank.

"The Scheme for appointment on Compassionate Grounds for dependants of deceased employees/ employees retired on medical grounds (updated upto 1.1.1998)" (referred to as the Scheme) promoted by the respondent-Bank for granting compassionate

appointment to enable the family to tide over certain crisis due to death of the bread winner. It is only when the Bank is satisfied that the financial condition of the family is such that but for the provision of employment the family may not be able to meet the crisis the employment is to be given. Mere death of an employee in harness does not automatically entitle the dependants of the deceased for employment.

Clause 6 of the Scheme stipulates that such of those dependants who are minors, their applications for compassionate appointment have to be made within one year of the death of the employee. However, from the date of death the offer of appointment can be kept open only upto a maximum period of 6 years.

Admittedly, Shri Surinder Mohan Sharma, died on 21st February, 1994. Petitioner No.2 was working and drawing salary of Rs.2310/- per month. She has, before petitioner No.1 attaining age of majority has sought pre-mature retirement and taken all consequential pecuniary benefits including PF and gratuity.

Even though there is some dispute with regard to the factual income of the family which is the basis of challenge in the writ petition, however, without going into the same from the scheme

itself it is evident that petitioner No.1 could not have been considered for employment beyond a period of 6 years from the date of death of the deceased.

In State of J& K and others vs. Sajad Ahmed Mir, reported in 2006(5) SCC 766, and National Institute of Technology and others vs. Niraj Kumar Singh, reported in 2007(2) SCC 481, the Apex Court has clarified that compassionate appointment must be under the scheme in consonance with Articles 14 and 16 of the Constitution of India. The compassionate appointment is given to the widow or the dependant children of the employee who died in harness only with a view to render some assistance to the dependants so that they do not become destitute. Admittedly, in the present the family has been able to effectively tide over the crisis after the death of the employee, who died on 21st February, 1994.

For the foregoing reasons, I see no reason to exercise extra ordinary jurisdiction under Section 226 of the Constitution and interfere with the decision of the respondent-Bank. There is no merit in the writ petition, which is accordingly dismissed.

16th April, 2007 (Sanjay Karol), J.
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